

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EUGENE BLACKMON
TDCJ-CID #485431

v.

WARDEN KUKUA, ET AL.

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C.A. NO. C-08-273

ORDER

Plaintiff is a state inmate who filed a civil rights action pursuant to 42 U.S.C. § 1983. Pending is plaintiff's motion to amend the certificate of service. (D.E. 32).

On December 23, 2008, defendants filed an answer. (D.E. 27). On January 22, 2009, plaintiff filed a notice that defendants had been served with discovery requests pursuant to the Federal Rules of Civil Procedure. (D.E. 30). That notice does not contain a certificate of service. Id. It appears plaintiff is seeking to amend this notice to include the certificate of service indicating that a copy of the notice was mailed to defendants on January 26, 2009. To the extent that is plaintiff's intention, his motion to amend the certificate of service, (D.E. 32), is GRANTED.

In plaintiff's pending motion, he references that he "filed a respond [sic] opposing defendant's original answer." (D.E. 32, at 1). The Court has not received any response to defendants' answer.

Rule 7 of the Federal Rules of Civil Procedure addresses the filing of pleadings, including the filing of answers. In relevant part, it states:

There shall be a complaint and an answer; a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under the provisions of Rule 14; and a third-party answer, if a third-party complaint is served. No other pleading shall be allowed, except

that the court may order a reply to an answer or a third-party answer.

Fed. R. Civ. P. 7(a) (emphasis added). Rule 7 was created in order to make federal litigation more efficient. 5 Charles Alan Wright & Arthur R. Miller Federal Practice and Procedure § 1181 (3d ed. 2004).

Pursuant to the Federal Rules of Civil Procedure, a reply to an answer is unnecessary. Garner v. Morales, 237 F.R.D. 399, 400 (S.D. Tex. 2006) (citation omitted). “More important, Rule 7(a) establishes that plaintiffs may not file a reply to an answer except in specific circumstances” generally a court order for such a reply. Id. (citations omitted).

It appears that plaintiff is indicating that he either filed a response to defendants’ answer, or intends to file such a response. Rule 7(a) provides judges with discretion to allow the filing of a reply to an answer. Here, however, plaintiff has failed to provide any reason a reply is necessary. “Indeed, such replies typically do not enhance the efficiency of the litigation.” Id. (citation omitted). Accordingly, to the extent that plaintiff is seeking leave to file a response to defendants’ answer, such a request is hereby DENIED.

ORDERED this 2nd day of February 2009.


BRIAN L. OWSLEY
UNITED STATES MAGISTRATE JUDGE